

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

MAR 14 2007

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY  DEPUTY

LARRY C. IVES,

Petitioner,

vs.

STEVEN BECK, Warden of the
Mack Alford Correctional Center,

Respondent.

No. CIV-06-1417-W

ORDER

On February 10, 2007, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation in this matter and recommended not only that the Petition for Writ of Habeas Corpus ("Petition") filed by petitioner Larry C. Ives pursuant to title 28, section 2241 of the United States Code not be treated as filed under title 28, section 2254 of the United States Code, but also that the Petition be dismissed without prejudice to refiling. Ives was advised of his right to object, and the action now comes before the Court on Ives' Objection to the Report and Recommendation.

Upon de novo review of the record, the Court concurs with Magistrate Judge Bacharach's suggested disposition of this matter. Ives very clearly indicated that in his opinion his Petition was appropriately and properly filed under section 2241 and that it "should not be re-characterized as anything else" Objection (January 3, 2007) at 5. Based upon Ives' insistence that recharacterization was neither permitted under extant case law nor desired by him, Magistrate Judge Bacharach issued his Report and Recommendation and recommended dismissal. Ives' most recent Objection to that recommendation does not require the Court to find that recharacterization of the Petition

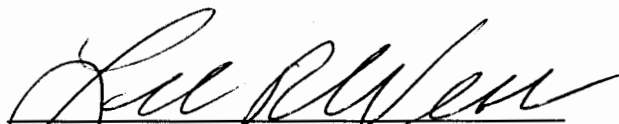
is now warranted.

Accordingly, the Court

(1) ADOPTS the Report and Recommendation issued on February 1, 2007; and

(2) DISMISSES Ives' Petition without prejudice to refiling.

ENTERED this 14th day of March, 2007.


LEE R. WEST
UNITED STATES DISTRICT JUDGE